



DATE DOWNLOADED: Fri Aug 18 01:12:01 2023

SOURCE: Content Downloaded from [HeinOnline](#)

Citations:

Please note: citations are provided as a general guideline. Users should consult their preferred citation format's style manual for proper citation formatting.

Bluebook 21st ed.

Janet R. Johnston, Children of Divorce Who Reject a Parent and Refuse Visitation: Recent Research and Social Policy Implications for the Alienated Child, 38 FAM. L.Q. 757 (2005).

ALWD 7th ed.

Janet R. Johnston, Children of Divorce Who Reject a Parent and Refuse Visitation: Recent Research and Social Policy Implications for the Alienated Child, 38 Fam. L.Q. 757 (2005).

APA 7th ed.

Johnston, J. R. (2005). Children of divorce who reject parent and refuse visitation: recent research and social policy implications for the alienated child. Family Law Quarterly, 38(4), 757-776.

Chicago 17th ed.

Janet R. Johnston, "Children of Divorce Who Reject a Parent and Refuse Visitation: Recent Research and Social Policy Implications for the Alienated Child," Family Law Quarterly 38, no. 4 (Winter 2005): 757-776

McGill Guide 9th ed.

Janet R. Johnston, "Children of Divorce Who Reject a Parent and Refuse Visitation: Recent Research and Social Policy Implications for the Alienated Child" (2005) 38:4 Fam LQ 757.

AGLC 4th ed.

Janet R. Johnston, 'Children of Divorce Who Reject a Parent and Refuse Visitation: Recent Research and Social Policy Implications for the Alienated Child' (2005) 38(4) Family Law Quarterly 757

MLA 9th ed.

Johnston, Janet R. "Children of Divorce Who Reject a Parent and Refuse Visitation: Recent Research and Social Policy Implications for the Alienated Child." Family Law Quarterly, vol. 38, no. 4, Winter 2005, pp. 757-776. HeinOnline.

OSCOLA 4th ed.

Janet R. Johnston, 'Children of Divorce Who Reject a Parent and Refuse Visitation: Recent Research and Social Policy Implications for the Alienated Child' (2005) 38 Fam LQ 757

Please note: citations are provided as a general guideline. Users should consult their preferred citation format's style manual for proper citation formatting.

Provided by:

Deakin University Library

Children of Divorce Who Reject a Parent and Refuse Visitation: Recent Research and Social Policy Implications for the Alienated Child*

JANET R. JOHNSTON**

I. Introduction

Most children of divorce, although pained by loyalty conflicts and at times angry and upset with their parents, are eager for contact with both their parents and want to retain a relationship with both.¹ By contrast, a small proportion of children develop strong negative attitudes toward one of their divorced parents and vehemently resist or refuse to visit or have anything to do with that parent.² Debates have raged about the causes and

* The research described in this paper was funded by the Amini Foundation for the Study of Affects. This article incorporates, with permission, materials first published by Janet R. Johnston & Joan B. Kelly, *Rejoinder to Richard Gardner MD's "Commentary on Kelly & Johnston's The Alienated Child: A Reformulation of Parental Alienation Syndrome."* 42 FAM. CT. REV. 622 (2004), and Janet R. Johnston & Joan B. Kelly, *Commentary on Walker, Brantley & Rigsbee's "Critical Analysis of Parental Alienation & Its Admissibility in the Family Court,"* 1 J. CHILD CUSTODY 77 (2004).

** Dr. Janet R. Johnston, Ph.D., professor of justice studies, San Jose University, is a specialist in research and clinical interventions with high-conflict divorcing families, parental abduction, and alienated children.

1. JUDITH S. WALLERSTEIN & JOAN BERLIN KELLY, *SURVIVING THE BREAKUP* (1980); E. Mavis Hetherington, Martha Cox & Robert Cox, *Effects of Divorce on Parents and Children*, in *NONTRADITIONAL FAMILIES*, 223-88 (Michael E. Lamb ed. 1982); Christie M. Buchanan, Eleanore E. Maccoby & Sanford M. Dornbusch, *'Caught between Parents': Adolescents' Experience in Divorced Homes*, 62 CHILD DEV. 1008 (1991).

2. Janet R. Johnston, *Children of Divorce Who Refuse Visitation*, in *NONRESIDENTIAL PARENTING* 109-35 (Charlene E. Depner & James H. Bray eds. 1993); Janet R. Johnston, *Parental Alignments and Rejection: An Empirical Study of Alienation in Children of Divorce*, 31 J. AM. ACAD. OF PSYCH. & LAW, 158 (2003) [hereinafter *Parental Alignments & Rejection*].

correlates of these phenomena. At one extreme of an ideological battle, Parental Alienation Syndrome (PAS) proponents believe the primary cause is an embittered divorced spouse who systematically programs or brainwashes the child against an innocent rejected parent.³ At the other extreme, advocates for victims of domestic violence believe that too often these children and allied parent have suffered real abuse at the hands of the rejected parent, abuse that has been largely ignored, dismissed, or greatly minimized by family courts.⁴

This paper will briefly critique PAS theory and present a reformulation of the phenomena together with recent research findings. Then it will discuss the social policy issues that arise from this problem. These include whether children necessarily need a relationship with both parents; whether children who reject a parent are significantly emotionally troubled or at-risk for emotional problems or psychological disorders in the future; and hence whether they need court-ordered treatment (despite the child's and aligned parent's resistance or objections); what is the nature, purpose, and prognosis for mandated treatment; when should we give children their own voice and respect their self-determination; and under what conditions should a change of primary residence to the rejected parent be considered?

II. The Problems with Parental Alienation Syndrome

The phenomena of a child's strident rejection of one parent, generally

3. STANLEY S. CLAWAR & BRYNNE V. RIVLIN, CHILDREN HELD HOSTAGE: DEALING WITH PROGRAMMED AND BRAINWASHED CHILDREN (1991); John Dunne & Marsha Hedrick, *The Parental Alienation Syndrome: An Analysis of Sixteen Cases*, 21 J. DIV. & REMARRIAGE 21 (1994); RICHARD A. GARDNER, THE PARENTAL ALIENATION SYNDROME (2d ed. 1998); Richard A. Gardner, *Commentary on Kelly and Johnston's "The Alienated Child: A Reformulation of Parental Alienation Syndrome,"* 42 FAM. CT. REV. 622 (2004); Tony Hobbs, *Parental Alienation Syndrome and UK Family Courts, Part I*, FAM. L. 182 (Mar. 2002); Tony Hobbs, *Parental Alienation Syndrome and UK Family Courts—The Dilemma*, FAM. L. 381 (May 2002); Leona Kopetski, *Identifying Cases of Parental Alienation Syndrome—Part I*, 29 COLO. LAWYER 65 (1998); Leona Kopetski, *Identifying Cases of Parental Alienation Syndrome—Part II*, 29 COLO. LAWYER 63 (1998); M.R. Walsh & J.M. Bone, *Parental Alienation Syndrome: An Age-Old Custody Problem* 81 FLA. B.J. 93 (1997); Richard Warshak, *Current Controversies Regarding Parental Alienation Syndrome*, 19 AM. J. FORENSIC PSYCH. 1 (2001); Richard Warshak, *Bringing Sense to Parental Alienation: A Look at the Dispute and the Evidence*, 37 FAM. L.Q. 273 (2003).

4. LUNDY BRANCROFT & JAY G. SILVERMAN, THE BATTERER AS PARENT: ADDRESSING THE IMPACT OF DOMESTIC VIOLENCE ON FAMILY DYNAMICS (2002); Clare Dalton, *When Paradigms Collide: Protecting Battered Parents and Their Children in the Family Court System*, 37 FAM. & CONCILIATION CTS. REV. 273 (1999); PETER G. JAFFE, NANCY K.D. LEMON & SAMANTHA E. POISSON, CHILD CUSTODY & DOMESTIC VIOLENCE: A CALL FOR SAFETY AND ACCOUNTABILITY (2003); Claire Sturge & Danya Glaser, *Contact and Domestic Violence—The Experts' Court Report*, FAM. L. 615 (Sept. 2000); Lenore E.A. Walker, Kristi L. Brantley & Justin A. Rigsbee, *A Critical Analysis of Parental Alienation Syndrome and Its Admissibility in the Family Court*, 1 J. CHILD CUSTODY 47 (2004).

accompanied by strong resistance or refusal to visit or have anything to do with that parent, was first recognized by Judith Wallerstein and Joan Kelly in their seminal study of children of divorce.⁵ They described it as an “unholy alliance” between an angry parent and an older child or adolescent. Later, Richard Gardner coined the label “Parental Alienation Syndrome” (PAS)⁶ to describe a psychiatric disorder in a child in the context of a custody dispute, and it is this entity that has generated both enthusiastic endorsement and strong negative response across North American and European family courts.⁷ Gardner claims that PAS has three components. The first is a child who exhibits obsessive hatred of a target parent (an animosity that often extends to the parent’s extended family); makes weak, frivolous and absurd complaints; justifies the stance by quoting “borrowed scenarios”; and lacks any ambivalence or guilt toward the hated parent. The second component is a vindictive parent who is involved in consciously or unconsciously brainwashing the child into this indoctrinated stance; and the third component is false allegations of abuse that are generated by alienating parent and child.⁸

Allegations of PAS or PA have become a fashionable legal strategy in numerous divorce cases where children are resisting contact with a parent.⁹ Most controversial are the radical recommendations that follow from Gardner’s view that an alienating parent is the principal, if not sole, cause of the problem. In severe cases of PAS, he recommends changing custody (i.e. placing the child with the “hated” parent) as well as other punitive measures that have resulted, for instance, in the child’s detention in juvenile hall, and/or the jailing and fining of the offending parent.¹⁰

In the larger community, the concept of PAS has created its own gender

5. Judith S. Wallerstein & Joan B. Kelly, *The Effects of Parental Divorce: Experiences of the Child in Later Latency*, 46 AM. J. ORTHOPSYCHIATRY 256 (1976); WALLERSTEIN & KELLY, *supra* note 1.

6. RICHARD A. GARDNER, *THE PARENTAL ALIENATION SYNDROME AND THE DIFFERENTIATION BETWEEN FABRICATED AND GENUINE CHILD SEX ABUSE* (1987); GARDNER, *supra* note 3.

7. Carol S. Bruch, *Parental Alienation Syndrome: Junk Science in Child Custody Determinations*, 3 EUR. J.L. REFORM 383 (2000); Carol S. Bruch, *Parental Alienation Syndrome and Parental Alienation: Getting It Wrong in Child Custody Cases*, 35 FAM. L.Q. 527 (2001); Hobbs, *supra* note 4; Sturge & Glaser, *supra* note 4.

8. GARDNER, *supra* note 3.

9. DOUGLAS DARNELL, *DIVORCE CASUALTIES: PROTECTING YOUR CHILDREN FROM PARENTAL ALIENATION* (1990); Mary Lund, *A Therapist’s View of Parental Alienation Syndrome*, 33 FAM. & CONCILIATION CTS. REV. 308 (1995); Deirdre Rand, *The Spectrum of Parental Alienation. Part I*, 15 AM. J. FORENSIC PSYCH. 23 (1997); Deirdre Rand, *The Spectrum of Parental Alienation. Part II*, 15 AM. J. FORENSIC PSYCH. 39 (1997); Walsh & Bone, *supra* note 4; C. Wood, *The Parental Alienation Syndrome: A Dangerous Aura of Reliability* LOY. L.A. L. REV. 1367 (1994).

10. Richard Gardner, *Recommendations for Dealing with Parents Who Induce Parental Alienation Syndrome in Their Children*, 28 J. DIV. & REMARRIAGE 1 (1998).

politics. Father's rights groups have used the concept in child support proceedings to respond to ex-wives who have not allowed them access to their children. In child custody proceedings, men have used PAS to defend themselves against allegations of domestic violence and sexual molestation. Women's advocates have scathingly rejected Gardner's formulation as "junk science" and reflective of institutional and social biases that victimize women.¹¹ The media too has entered the debate with extensive stories and investigations, some well-balanced journalistic reporting, others sensationalized and one-sided.¹² A more extensive discussion of the literature is beyond the scope of this paper, but can be found elsewhere.¹³

The main problem is that PAS focuses almost exclusively on the alienating parent as the etiological agent of the child's alienation. Gardner's proposition as to the cause of PAS is rendered tautological by the following kind of circular reasoning: an alienated child (who is supposedly distinct from an abused child) has by definition a brainwashing parent; hence if a child is alienated, then a brainwashing parent exists and is the sole cause. I will show that Gardner's singular focus on the aligned parent as primarily responsible for the child's alienation is overly simplistic and not supported by available data. Indeed, our research shows that the problem of children's rejection of a parent is a family system's pathology exacerbated by an adversarial legal system, and not an individual psychiatric disorder. Therefore, PAS cannot properly be considered a "diagnostic syndrome" according to customary psychiatric nomenclature because there are no "commonly recognized or empirically verified pathogenesis, course, familial pattern, or treatment selection for the condition."¹⁴ Hence the label "PAS" does not add any information that would enlighten the court, the clinician, or their

11. Bruch, *supra* note 7.

12. See, e.g., Mackenzie Carpenter & Ginny Kopas, *Casualties of a Custody War: What's Best for the Child?* PITTSBURGH POST-GAZETTE, May 31, 1998; Mackenzie Carpenter & Ginny Kopas, *Casualties of a Custody War: The Courtroom as a Battleground?* PITTSBURGH POST-GAZETTE, June 1, 1998; Mackenzie Carpenter & Ginny Kopas, *Casualties of a Custody War: Maverick Expert Exerts Wide Influence on Custody Cases*, PITTSBURGH POST-GAZETTE, June 2, 1998; Thomas Farragher & Dale Rodebaugh, *Hanged Boy in Custody Case*, SAN JOSE MERCURY NEWS, Feb. 2, 1989; Susan Goldsmith, *The Scarlet Letter*, 4 NEW TIMES L.A. 15 (1999); Darlene Stevens, *Judges Get Tough on Defiant Kids of Divorce*, CHICAGO TRIBUNE, Jan. 23, 1996, at 1D; Darlene Stevens, *Court Backs Judge Who Jailed Girl, 12—Custody Ruling Stirs Protest Among Family-Law Experts*, CHICAGO TRIBUNE, Apr. 9, 1996, at 1N; Lindsey Tanner, *Girl Is Threatened with Jail Unless She Visits Dad*, PM cycle, ASSOCIATED PRESS, Feb. 6, 1996.

13. CLAWAR & RIVLIN, *supra* note 3; Kathleen C. Faller, *The Parental Alienation Syndrome, What Is It and What Data Support It?*, 3 CHILD MALTREATMENT 100 (1998); GARDNER, *supra* note 3; Rand, *supra* note 9; Ira D. Turkat, *Child Visitation Interference in Divorce*, 14 CLINICAL PSYCH. REV. 737 (1994); Kenneth H. Waldron & D.E. Joanes, *Understanding and Collaboratively Treating Parental Alienation Syndrome*, 10 AM. J. FAM. L. 121 (1996).

14. AMERICAN PSYCHIATRIC ASSOCIATION, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS: DSM-IV (4th ed. 1994).

clients, all of whom would be better served by a more specific description of the child's behavior in the context of his family.

Until recently, all of this controversy and debate occurred in the virtual absence of empirical support for the reliable identification of PAS as a diagnostic identity. Rather, the evidence for PAS was largely based on Gardner's (and other proponents') anecdotal clinical experience. Although there have been numerous references in the literature that make claims and counterclaims about the phenomena, the number that offered empirical data were preliminary and/or flawed studies.¹⁵

III. A Reformulation of the Problem: The Alienated Child

Five years ago, a task force of experienced clinicians and researchers was convened to study the problem.¹⁶ Together, we formulated a new conceptualization of the alienated child that we believe is more useful than PAS, developed hypotheses about the factors that are its causes and correlates, and distinguished it from developmentally normative reactions and from realistic responses to abusive and neglectful parenting. In addition, we examined the admissibility of expert testimony about PAS in court, assessment of alienation, case management issues, and therapeutic interventions.¹⁷ During the past three years, a subset of this task force launched a program of research to empirically investigate the many factors that we hypothesized are determinative in this phenomena. As a result, five other papers that are research-based have been published or are in press.¹⁸

15. Dunne & Hedrick, *supra* note 3; Johnston, *supra* note 2; Kopetski, *supra* note 3; Anita K. Lampel, *Children's Alignments with Parents in Highly Conflicted Custody Cases*, 34 FAM. & CONCILIATION CTS. REV. 229 (1996).

16. This self-appointed task force from Northern California included Steven Friedlander Ph.D., Janet Johnston Ph.D., Joan Kelly Ph.D., Margaret Lee Ph.D., Nancy Olesen Ph.D., John Sikorsky MD, Matthew Sullivan Ph.D., and Marjorie Walters Ph.D.

17. The product of our task force was a series of six published papers that address these important distinctions: Joan B. Kelly & Janet R. Johnston, *The Alienated Child: A Reformulation of Parental Alienation Syndrome*, 39 FAM. CT. REV. 249 (2001); Justice R. James Williams, *Should Judges Close the Gate on PAS and PA?* 39 FAM. CT. REV. 267 (2001); Lewis Ziropiannis, *Evidentiary Issues with Parental Alienation Syndrome*, 39 FAM. CT. REV. 334 (2001); S. Margaret Lee & Nancy W. Olesen, *Assessing for Alienation in Child Custody and Access Evaluations*, 39 FAM. CT. REV. 229 (2001); Matthew J. Sullivan & Joan B. Kelly, *Legal and Psychological Management of Cases with an Alienated Child*, 39 FAM. CT. REV. 299 (2001); Janet R. Johnston, Marjorie G. Walters & Steven Friedlander, *Therapeutic Work with Alienated Children and Their Families*, 39 FAM. CT. REV. 316 (2001).

18. In one paper, substantiated abuse has been reliably identified and distinguished from allegations of child abuse and domestic violence as an explanation for children's rejection of a parent in 120 custody-disputing families: Janet R. Johnston, et al., *Allegations and Substantiations of Abuse in Custody Disputing Families*, 43 FAM. CT. REV. 283 (2005). Two papers report empirical studies of our more complex model of child alienation, providing evidence that both parents as well as vulnerabilities within the child contribute to the problem of alienation:

This new formulation focuses on the "alienated child" rather than "parental alienation." An alienated child is defined as one who expresses, freely and persistently, unreasonable negative feelings and beliefs (such as anger, hatred, rejection and/or fear) toward a parent that are significantly disproportionate to the child's actual experience with that parent.¹⁹ Entrenched alienated children are marked by unambivalent, strident rejection of the parent with no apparent guilt or conflict. Early precursors of alienation include complaints and expressions of dislike along with resistance and lack of pleasure in visiting the target parent, together with role reversal and separation anxieties from the preferred parent. From this viewpoint, the pernicious behaviors of a "programming" parent are no longer assumed to be the starting point. Rather, the problem of the alienated child begins with a primary, neutral, and objective focus on the child, his or her observable behaviors, and parent-child relationships.

Too often in divorce situations all youngsters resisting visits with a parent are improperly labeled "alienated" and too frequently parents who question the value of visitation in these situations are labeled "alienating parents." We argue that it is important to differentiate *alienated* children (who persistently refuse visitation and stridently express unrealistic negative views and feelings) from other children who also resist contact with a parent after separation but for a variety of expectable reasons, including *normal developmental preferences* for one parent, *alignments* that are reactions to the specific circumstances of the divorce, and *estrangement* from a parent who has been neglectful or abusive. Each of these will be briefly described.

There are many components that make up a child's preference for one parent over the other in more normal family circumstances.²⁰ Normal developmentally expectable reasons include the child's familiarity and comfort

Johnston, *Parental Alignments & Rejection*, *supra* note 3; Janet R. Johnston, Marjorie G. Walters & Nancy W. Olesen, *Is It Alienating Parenting, Role Reversal or Child Abuse? An Empirical Study of Children's Rejection of a Parent in Child Custody Disputes*, J. EMOTIONAL ABUSE (forthcoming 2005) [hereinafter *Is It Alienating Parenting?*]. Another two papers report the psychological functioning of alienated children and their parents: Janet R. Johnston, Marjorie G. Walters & Nancy W. Olesen, *The Psychological Functioning of Alienated Children in Custody Disputing Families*, AM. J. FORENSIC PSYCH. (forthcoming 2005) [hereinafter *Psychological Functioning of Alienated Children*]; Janet R. Johnston, Marjorie G. Walters & Nancy W. Olesen, *Clinical Ratings of Parenting Capacity and Rorschach Protocols of Custody Disputing Parents: An Exploratory Study*, 2 J. CHILD CUSTODY (2005) [hereinafter *Rorschach Protocols*].

19. Kelly & Johnston, *supra* note 17 at 251.

20. Johnston, *Parental Alignments & Rejection*, *supra* note 2; Kelly & Johnston, *supra* note 17; Richard A. Warshak, *Remarriage as a Trigger of Parental Alienation Syndrome*, 28 J. FAM. THERAPY 229 (2000); Richard A. Warshak, *Misdiagnosis of Parental Alienation Syndrome*, 20 AM. J. FORENSIC PSYCH. 31; Warshak, *supra* note 3; JUDITH S. WALLERSTEN, JULIA M. LEWIS & SANDRA BLAKESLEE, *THE UNEXPECTED LEGACY OF DIVORCE: A 25 YEAR LANDMARK STUDY* (2000).

with a primary caretaker who provides “good-enough” care; separation-anxieties at times of transitions for a preschool child; gender identification and affinity in interests with one parent; and means-oriented alliances with a parent who offers the best goodies, or makes fewer demands.

Divorce-specific reasons for children, especially young adolescents, to make an alignment²¹ with one parent and potentially reject the other include:

- anger and hurt at the parent’s decision to divorce and manner of leaving the family;
- moral indignation at the parent’s behavior;
- worry and sympathy for the left-behind parent; and
- untenable loyalty conflicts and guilt that make the choice a relief.

Disruptions to their school and peer activities, boredom visiting a parent, jealousy and resentment about the involvement of new partners and step-siblings also can contribute to their negativity.²²

Other reasons that certainly justify the child developing strong negative feelings and convictions about a parent include neglectful, endangering, and/or abusive parenting, witness to family violence, and parental abandonment. We view these children as being realistically “estranged” from one of their parents as a consequence of the rejected parent’s history of family violence, abuse and neglect. This phenomenon needs to be clearly distinguished from alienated children. Estranged children may look like alienated children in that they can present with a mix of intense anger towards the abusive parent and fear of retaliation that can induce phobic reactions to that parent.²³

21. The defining features of aligned youngsters are that they are likely to be somewhat conflicted about their angry behavior, whereas alienated children tend to lack any ambivalence or guilt about their stance.

22. All of these divorce-specific reactions are likely to be time-limited if they are handled well by a warm, understanding parent, or may ameliorate with brief counseling.

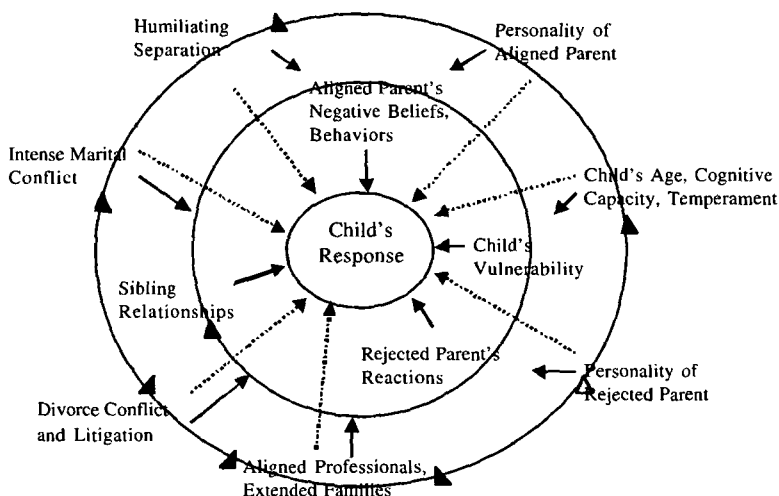
23. Often children only feel safe enough to reject a violent or abusive parent after the parents’ separation. In other cases where children have sustained or witnessed abuse, they can become pathologically attached to the perpetrator and in turn, reject an innocent victim parent. In this context, although the child looks like an alienated child, the dynamics are quite different in that the child’s behavior has been fuelled by the fear and control engendered by an abusive parent, or by the child’s defensive identification with the aggressor. In these cases, the important reason for distinguishing children whose antipathy is rooted in the actual experience of family trauma from those who are alienated is that they generally need a Post-Traumatic Stress Disorder intervention at the outset. Only after the trauma has been properly addressed should one consider whether interventions for alienation are necessary. The therapy of choice in these cases is to facilitate the child’s disclosure of the traumatic event (both the memory and the terrifying feelings associated with it), in a safe place. Therapists vary in their techniques, but the general idea is to systematically desensitize the child to the overwhelming terror and help him or her express expectable feelings. The therapist can then help the child to cognitively restructure any fixated or erroneous beliefs about his or her helplessness, vulnerability, culpability, and fantasies of rescue

IV. Research Findings about Causes and Correlates of Children's Rejection of a Parent

In our reformulation of the alienated child,²⁴ we have proposed that multiple factors contribute to children's rejection of a parent including a history of intense marital conflict; a humiliating separation or custody disposition, the psychological vulnerability of both parents; the child's age, cognitive capacity and temperament; the influence of siblings, new partners and extended family; and an adversarial litigation process where powerful professionals are seen as allies or enemies.²⁵ Figure 1 illustrates this model of multiple factors.

Figure 1: A Model of Factors Predicting Child Alienation

Adapted from Kelly & Johnston (2001)



Two empirical studies have been conducted to test this more complex model. In a study of clinical records of 125 children (five to thirteen years) in custody disputing families, Johnston and her associates tested four competing theories about why children reject a parent after divorce, asking the questions:

and revenge. In addition, some interpretation of the PTSD symptoms usually helps the child understand and manage them better. Robert S. Pynoos & Spencer Eth, *Witness to Violence: The Child Interview*, 25 J. AM. ACAD. OF CHILD & ADOLESCENT PSYCHIATRY 306 (1986); Louise Silvern, Jane Karyl, & Toby Y. Landis, *Individual Psychotherapy for the Traumatized Children of Abused Women*, in *ENDING THE CYCLE OF VIOLENCE: COMMUNITY RESPONSES TO CHILDREN OF BATTERED WOMEN* 43 (Jeffrey L. Edleson & Peter G. Jaffe eds. 1995).

24. Kelly & Johnston, *supra* note 17.

25. Johnston & Kelly, *supra* note 17; Kelly & Johnston, *supra* note 17.

- Is it an alienating coparent (the PAS perspective)?
- Is it substantiated child abuse by the rejected parent (the family violence perspective)?
- Is it the child's role reversal and psychological enmeshment with the aligned parent (the family structure perspective)?
- Is it all of the above factors jointly (the multifactor perspective)?²⁶

The findings were that substantiated child abuse occurred in about 15% of the sample, with both mothers and fathers likely to be perpetrators. Forty percent of fathers and 15% of mothers had perpetrated domestic violence. Whereas alienating behavior by both parents in this high-conflict custody-litigating sample was the norm, only about one fifth of the children had rejected a parent. Children were slightly more likely to reject their fathers than their mothers. The analysis supported a multi-dimensional explanation of children's rejection of a parent, with both parents as well as vulnerabilities within the child contributing to the problem. Alienating behavior by the aligned parent and role-reversal between that parent and child were strong predictors of the child's rejection of the other parent. Just as important as contributors were critical incidents of child abuse and/or lack of warm, involved parenting by the rejected parent.²⁷

Although a history of domestic violence did not predict children's rejection of a parent directly, some interesting indirect effects were found. Violent men were more likely to engage in alienating behaviors—*i.e.* demeaning a child's mother, indicating that this kind of psychological control of their child could be viewed as an extension of their physically abusive and controlling behavior. There was no evidence that female victims of domestic violence, as a group, tended to alienate their children from their batterers.²⁸

In another study, Johnston used data from research archives of 215 divorced families with a child between five and fourteen years referred from both family courts and the general community.²⁹ Fifteen percent of children from the community referrals and 21% from the custody litigation referrals were rejecting one parent in favor of the other. In contrast to PAS

26. *Is It Alienating Parenting?* *supra* note 18. These families were ordered for custody evaluations and custody counseling by the family courts between 1989 and 2002. Multiple ratings were completed by two clinicians who worked independently (producing good inter-rater reliabilities) and reduced by factor analysis to produce measures of each concept.

27. *Id.*

28. *Id.*

29. Johnston, *Parental Alignments & Rejection*, *supra* note 2. The data were collected between 1981 and 1991. Clinicians who were blind to the hypothesis of the study had completed multiple ratings on parent-child relationships in these families (with acceptable inter-rater reliabilities) two to three years after parental separation.

theory that views the indoctrinating parent as the principal player in the child's alienation, this study also found that children's rejection of a parent had multiple determinants with both the aligned parent and the rejected parent implicated in the problem, in addition to vulnerabilities within children themselves. Indeed, mothers who used their children for their own emotional support and acted in ways to sabotage their child's relationship with the other parent clearly contributed to the child's rejection of the father. However, in addition, lack of warmth, involvement, and competence in parenting by the rejected parent (whether mother or father) were strongly predictive of the child's rejection of that parent. Other factors that influenced children's rejection of a parent indirectly were prolonged custody litigation and the child's own attributes: older children and those who were more emotionally troubled and less socially competent were more aligned with one parent against the other.³⁰

It is important to note that these studies were concurrent analyses of family relationships, making it difficult to determine whether parents' alienating behaviors, poor parenting capacities, and critical incidents of child abuse preceded or followed the child's rejection of a parent. In light of these data, PAS proponents will probably argue that rejected parents have been rendered powerless to parent by the alliance against them while victim's advocates will want to hold them accountable for their parenting deficits. By the same token, the domestic violence field can argue that concerned parents, in *response* to their child's angry troubled relationship with their ex-spouse, empathically support their child's negative views, whereas PAS advocates will insist that an alienating parent is the initiator of the child's negative feelings and behavior. To our knowledge, no one has systematic longitudinal data that can help decide what comes first, the chicken or the egg.³¹ In summary, we find no convincing evidence to support Gardner's one-dimensional PAS theory that an alienating parent is primarily responsible for a child's alienation. Nor did we find evidence that family abuse was primarily responsible for the child's rejection of a parent. We suggest that in the absence of longitudinal data that could sort out which comes first, the best explanation is a multi-factor, systemic view of the phenomena.

30. *Id.*

31. These studies have other limitations, including the fact that the samples were not drawn randomly from the divorcing population and, therefore, are not necessarily representative. Also the measures were mostly new ones derived from clinical ratings of case records.

V. Do Children Need Two Parents and Should Access Be Enforced?

In light of multiple factors that could be contributing to the problem of the child's rejection of a parent, the dangers of misidentification are great and there is a need for well-trained forensic mental health experts to undertake assessments and make these distinctions.³² Only then can one begin to address the question of whether the child needs to have a relationship with both parents. A wide range of parenting capacities are possible (in both aligned and rejected parent) in any particular case, ranging from frankly abusive, to poor or marginal parenting, to adequate, to good or even very good. One needs to ask what each parent can contribute to the child and not reflexively assume that both parents are necessary, nor that one parent can be discarded. This is a child-centered and not a parental-rights approach. Indeed, a risk-benefit assessment needs to be made about the advisability of contact.³³

Some of the benefits in having the rejected parent involved may include: sharing different perspectives on the world; promoting the critical sense of being important and unconditionally loved; providing the child a sense of his origins and identity, these being important components of self-esteem; maintaining continuity of a prior relationship that would be grieved if it were truly lost; consolidating the child's gender identity by validation from the same and opposite sexed parent; repairing a distorted relationship by preventing unrealistic idealization or de-idealization; and enhancing the child's coping capacities rather than allowing him to avoid or run away from a difficult situation. Also, it may be important for a rejected parent to reach out to the child and provide a solid and reliable base that can ultimately rescue the child from an overly dependent or enmeshed relationship with the aligned parent.

These potential benefits need to be weighed against the risks of insisting on contact, including: the child remaining in the center of the parental conflict, subject to untenable loyalty binds and the continuing pressure of litigation; exposure to witnessing further abuse between parents; and being subject to unreliable contact with a parent who intermittently abandons the child because of frustration with the situation or preoccupation with his or her own interests. Not least is the risk of the child feeling overwhelmingly helpless, unheard, not believed, and dismissed as being no more than a puppet of the other parent when she expresses strong feelings and fears about access.

32. For an informed discussion on how to evaluate these cases, see Leslie M. Drozd & Nancy W. Olesen, *Is It Abuse, Alienation and/or Estrangement? A Decision Tree* 1 J. CHILD CUSTODY 65 (2004).

33. Sturge & Glaser, *supra* note 4.

All of these potential risks and benefits need to be considered and revisited whenever recommendations or decisions are made about timing, frequency, duration, and supervision or facilitation of the parent-child contact. One needs to ask: what can the child tolerate and make good use of as well as what does a parent have to offer? However, to give young, pre-adolescent children the unilateral right to veto a reasonable access arrangement (one that has been carefully assessed as to psychological and physical safety) is not in their best interests. It can become frightening and burdensome and can reinforce an unrealistic sense of their power or phobic concerns.

On the other hand, it is developmentally appropriate for older adolescents and teenagers to have a voice in decisions about whether they will visit with a parent. Provided that teenagers are making good choices and progressing in other areas of their life—such as school, work, peers and extra-curricular activities—it is appropriate for the family court to strongly consider their well-reasoned wishes and more mature preferences in these matters.³⁴ In so doing, the family court honors the young person's need for autonomy and a sense of fairness that will foster their respect for the process of justice.

VI. Do Alienated Children and Their Parents Need Treatment?

To what extent are children who reject a parent after divorce emotionally disturbed or at-risk for psychological problems and relationship difficulties later in life? This too can vary enormously and depends partly upon whether they have good reason to feel and act as they do. We have written that it is a "healthy response when children. . . distance themselves from the corrosive effects of a parent who is unreliable, consistently inadequate, or abusive."³⁵ However, among the small group of alienated children who express *unreasonable* negative feelings and beliefs about a parent (such as persistent anger, hatred, rejection and/or fear), clinical observations are that they are likely to be more troubled—more emotionally dependent, less socially competent, have problematic self-esteem (either

34. This issue needs to be seriously addressed by legal scholars, civil rights activists, and perhaps also by international bodies on human rights. Ashamedly, the U.S. has declined to sign the International Treaty on the Rights of the Child (<http://www.unicef.org/crc/convention.htm>) and children in family courts are not afforded many of the rights of older civilians. Although minors may, on occasion, have counsel appointed for them, they are not entitled as a matter of course to have legal standing as a party in the divorce proceedings, nor are they granted immutable rights to legal representation in U.S. family courts. Perhaps other countries who have signed this treaty (*e.g.*, Australia, Canada and Great Britain) will have better ways of protecting and empowering older children, and will act as flagships for social policy in this area.

35. Kelly & Johnston, *supra* note 17, at 254.

low or defensively high), poor reality testing, lack the capacity for ambivalence, and are prone to enmeshment or splitting in relations with others, indicating that they have difficulty in feeling separate and viable as individuals.³⁶

Severely alienated children also are likely to manifest serious conduct disorders and can behave very inappropriately, at least in the presence of the rejected parent. Extreme expressions of hatred, rage, contempt, and hostility can be acted out in rudeness, swearing, and cursing, hanging up the phone, spitting at or striking a parent, sabotaging or destroying property, stealing, lying, and spying on the rejected parent. In anyone's book, these are not helpful or moral ways of dealing with a difficult interpersonal relationship of any kind. Questions may be raised about the aligned parent's competence and need for counseling if she or he allows these children's behaviors to continue or does not have the ability to control them.

In a third study, we looked for empirical data from standardized measures to back-up these clinical observations³⁷ by examining available psychological testing data for seventy-four children ages five to twelve years in the sample of custody-disputing families described above.³⁸ Compared to children in these custody-litigating families who were able to remain somewhat equidistant between their parents, children who rejected either their mothers or fathers were rated by their aligned parent as having more total behavioral problems of clinically significant levels. Specifically, they were likely to be more depressed, withdrawn, somatic, and aggressive. According to personality testing using the Rorschach, alienation seemed to be a defensible strategy for those children who were more reliant upon others to solve problems. Alienated children were more likely to perceive inaccurately and reason illogically; they lacked good human representation and capacity for relatedness, were more likely to have coping deficits, and had problems modulating their more intense feelings.

By contrast, nonalienated children tended to be more self-reliant, highly vigilant, more emotionally constricted and were likely to simplify rather

36. JANET R. JOHNSTON & VIVIENNE ROSEBY, *IN THE NAME OF THE CHILD: A DEVELOPMENTAL APPROACH TO UNDERSTANDING AND HELPING CHILDREN IN CONFLICTED AND VIOLENT DIVORCE* (1997); Kelly & Johnston, *supra* note 17; Warshak, *supra* note 3.

37. Johnston, Walters & Olesen, *Psychological Functioning of Alienated Children*, *supra* note 18.

38. Parent ratings on the Child Behavior Problem Checklist (CBCL) [THOMAS M. ACHENBACH & CRAIG EDELBROCK, *MANUAL FOR THE CHILD BEHAVIOR CHECKLIST AND REVISED CHILD BEHAVIOR PROFILE* (1983)] and children's Rorschach scores [JOHN E. EXNER & IRVING B. WERNER, *THE RORSCHACH: A COMPREHENSIVE SYSTEM: ASSESSMENT OF CHILDREN AND ADOLESCENTS*, VOL. 3 (1982)] were correlated with measures of the degree to which children rejected one parent and resisted visitation and with their propensity for separation-anxiety and role reversal with the other parent.

than distort their perceptions.³⁹ Interestingly, all these are probably useful coping strategies for living in a “war zone” between custody-disputing parents.⁴⁰ However, it should be acknowledged that these are concurrent analyses, and there are no systematic long-term data on the adjustment and well-being of alienated compared to nonalienated children so that long-term prognostications are merely speculative.

With respect to the parents’ need for mandated treatment, we argue that alienating behavior by parents is a malignant form of emotional abuse of children that needs to be corrected, whether a parent agrees or not. A growing body of literature on the adverse effects of parents’ psychological control, also called “intrusive parenting,” supports this contention. The insidious effects of psychological control (parenting that manipulates and constrains children’s feelings, ideas, and attachments) has been isolated from the benefits of behavioral control (discipline and supervision), reliably measured and associated with a strong, consistent negative impact on children’s self processes, internalizing and externalizing problems, and academic achievement.⁴¹

By the same token, rejected parents often need counseling in order to deal with their parenting deficits that may include: passivity and intermittent withdrawal in response to conflict or due to self-absorption and immaturity; difficulty maintaining empathic involvement with their child; and sometimes a harsh, rigid parenting style that can erupt into explosive frustration at the recalcitrant child—outbursts that can become abusive. Most especially, rejected parents need supportive education on how to avoid being over-intrusive or counter-rejecting in response to their child’s difficult behavior.⁴²

A fourth empirical study of the personality profiles of ninety-eight parents in custody disputes lends support to these clinical observations.⁴³ This study found that alienating parents—who were also likely to be in role reversal with their children—had more narcissistic personality traits, manifested in less capacity for interested, empathic relations with others, pre-

39. Johnston, Walters & Olesen, *Psychological Functioning of Alienated Children*, *supra* note 18.

40. These findings are consistent with those from another preliminary study of aligned children, Lampel *supra* note 15.

41. INTRUSIVE PARENTING: HOW PSYCHOLOGICAL CONTROL AFFECTS CHILDREN AND ADOLESCENTS (2002) (BRIAN K. BARBER, ed. 2001).

42. Kelly & Johnston, *supra* note 17; Johnston *supra* note 2.

43. Johnston, Walters & Olesen, *Rorschach Protocols*, *supra* note 18. Using all cases where personality testing had been completed, the sample was drawn from the same source as the other studies described above. The Rorschach profiles of ninety-eight custody disputing parents (forty-nine couples) were correlated with clinical ratings of alienating behavior, role-reversal with the child, warm-involved parenting and substantiated child abuse by each parent.

occupation with self, and an absence of a need for interpersonal closeness. Rejected parents—who were prone to be abusive and lacked warm involvement with their children—were likely to be depressed, anxious, and had difficulty coping and modulating their emotions.

In sum, our research indicates that alienated children are likely to be psychologically fragile and significantly emotionally troubled within an already high-risk population of high-conflict divorce. Their difficulties are rooted in the pre-separation and divorce dynamics of their families, their parents' psychological functioning as well as in their individual vulnerabilities. For this reason, legal strategies alone—like change of custody, enforced visits, or even termination of parental access—are unlikely to solve the problem.

VII. The Nature, Purpose and Prognosis for Mandated Treatment

Having established the general need for therapeutic or corrective interventions in families of alienated children, and recognizing that at least some family members (especially the aligned parent and child) will not participate voluntarily, we now turn to the type, goals, and prognosis for mandated treatment.⁴⁴ First, we disagree with Gardner on much of his recommended treatment programs that are singularly focused on coercion and punishment of the aligned parent and errant child.⁴⁵ For moderate types of PAS, he recommends a “stringent authoritarian approach” by therapists who have “free access to reveal, at his or her own discretion, any and all information disclosed in treatment to specific outside parties, such as attorneys on both sides, the guardian *ad litem*, and the court”⁴⁶ He goes on to advocate unashamedly for the therapist to employ “threats” that are backed up by court sanctions including fines, withholding of child and spousal support, house arrest, and incarceration. With recalcitrant parents and in severe types of PAS, he advocates court-ordered transfer of primary custody to the rejected parent (in most cases) or the use of a court-ordered transitional site to make that transfer if the former is not feasible or safe for

44. Not all alienated children can necessarily make good use of therapy. In recommending treatment, it is also important to look at the child's social and emotional adjustment as a whole (peer relationships, school performance, presence of behavior problems, anxiety, and depression), not just at the fact that they do not want to visit with a parent.

45. Gardner, *supra* note 10; Richard A. Gardner, *Family Therapy for the Moderate Type of Parental Alienation Syndrome*, 27 AM. J. FAM. THERAPY 195 (1999); Richard A. Gardner, *Should Courts Order PAS Children to Visit/Reside with the Alienated Parent? A Follow-up Study*, 19 AM J. FORENSIC PSYCHOL. 61 (2001).

46. *Supra* at 195.

an angry, rejecting child.⁴⁷ All of these prescriptions sound like a license for tyranny or, in the very least, could lead to abuses of power and violation of clients' civil rights. Certainly, most therapists cannot conceive of developing a useful therapeutic relationship with family members under such conditions.

We recommend a full assessment of all the contributing factors to the child's rejection of a parent as the basis for a systemic intervention that includes all relevant family members and their supporters,⁴⁸ an intervention that is governed by a stipulation between the parties and then ordered by the court.⁴⁹ These court orders are usually carefully drawn up by the parents' attorneys and guardian *ad litem* and prescribe the goals of treatment and roles of any therapist and/or parenting coordinator, their domains of authority, terms of appointment, any decision-making and appeals process, lines of communication and limits of confidentiality, fees, and grievance process.⁵⁰ Treatment contracts like these take into account the potential for family violence and explicitly proscribe conjoint sessions between family members where there is that risk. These kind of treatment contracts protect not only the therapy but also the parties' emotional and physical safety, avoid unwarranted intrusiveness and violation of civil rights, and hold treatment agents accountable for meeting the goals in a timely manner or require them to justify why they should remain involved in a case if goals are not met.

The goal of treatment should be focused on the psychological health of these children, remedying the distortions in their perception and judgment and increasing their coping capacities and appropriate expression of affect. It should not be limited to reunification with the rejected parent. Rather the purpose is to transform the child's distorted, rigidly held, polarized, and defensively split-off views of one parent as "all bad" and other as "all good" into more realistic and measured ones, rooted in the child's actual experience of both parents. This involves restoring appropriate co-parental and parent-child roles within the family and reinstating the child's conflict-free access to the "good parts" or the positive attributes of both parents in ways that promote the child's healthy psychological development.⁵¹

With respect to prognosis, it is important to acknowledge that systematic research is absent, long-term outcomes with alienated children are largely a matter of conjecture, and the extent to which they "spontaneously

47. Gardner, *supra* note 10.

48. Lee & Olesen, *supra* note 17.

49. Johnston, Walters & Friedlander, *supra* note 17.

50. Christine A. Coates, Robin Deutsch, et al., *Parenting Coordination for High-Conflict Families*, 42 FAM. CT. REV. 246 (2003); Matthew J. Sullivan, *Ethical, Legal and Professional Practice Issues Involved in Acting as a Psychologist Coordinator in Child Custody Cases*, 42 FAM. CT. REV. 576 (2004); Sullivan & Kelly, *supra* note 17; Waldron & Joanes, *supra* note 13.

51. As described more fully in Johnston, Walters & Friedlander, *supra* note 17.

recover” is not known. For this reason, social policy regarding the management of these cases, including changes of custody and the nature and type of preferred treatment, will continue to be debated.

Reconciliation of the alienated child with the rejected parent and normalization of access is not necessarily an appropriate or achievable goal. It is our clinical experience that this kind of success usually comes from early intervention and preventive measures, before the child’s stance and family dynamics have become immutable and bogged down in litigation. Also the prognosis is good where the aligned parent is a relatively healthy, protective parent, where the rejected parent is calm and patient in forming a bond with the child, and both encourage the child to separate from one parent and reunify with the other.

Sometimes alienated children can achieve a strategic or emotionally safe distance from a rejected parent where contact involves less frequent but more structured mutually-enjoyable activities wherein their antipathy is muted. Others, especially adolescents, may be best helped by taking time out from the stressful situation, where the rejected parent is counseled to remain available for future contact when the teenager is more ready. Attempts at therapy and reunification are suspended for some time, and the youngsters are invited to “get on with their own lives” and make the choice of contact at a later date. Provided that these young persons are functioning relatively well with peers and in other family relationships, this may be a reasonable compromise. In these cases, rejected parents are counseled on how to withdraw gently and leave the door open for future contact, stressing their unconditional love and availability. Nondirect access through letters, cards, and/or e-mail monitored or facilitated by a therapist may be all that is possible where the rejected parent has little to offer the child.

More problematic outcomes involve the rejected parent losing patience or losing interest and walking away from the situation, or carrying on the battle in court. In this event, family dynamics solidify, with neither parent relinquishing their worries or fears, and the child’s defenses also become rigid. Other negative outcomes are those in which children continue the good/bad splitting and precipitously reverse their allegiance, rejecting the previously aligned “all good” parent and embracing the previously rejected “all bad” parent. Stalemates obviously occur when the aligned parent and child avoid, refuse, or sabotage any therapeutic intervention.

VIII. When Is a Change of Primary Residence Warranted?

Only in those relatively rare situations where the aligned parent is found to be psychotic, severely character-disordered, or a serious abduction risk, and has corresponding serious parenting deficits do we consider a change

of custody warranted. Even then, to be awarded primary residence the rejected parent should be assessed as providing a better alternative. This means that changes of custody should not be based solely on the child's rejection of a parent, but rather on those factors that would customarily lead to removing the child from or supervision of contact with a residential parent. Such parent factors include severe clinical pathology in the residential parent (DSM-IV Axis I & II), and parental neglect and/or abuse. Change of custody should also be considered when the aligned parent continues to be emotionally abusive, *e.g.*, makes repeated malicious, unsubstantiated allegations of abuse about the rejected parent, and attempts to inculcate negative beliefs in the child, or threatens child abduction. For children, questions about the appropriate custodian need to be raised if the child has a severe psychological dysfunction (DSM-IV Axis I disorders), antisocial behavior, or evidence of emotional trauma due to neglect and abuse. In each of these cases, changing custody to the rejected parent or placement with a third party and supervised contact with the custodial parent should be seriously considered.

IX. Conclusion

When highly-conflicted, custody-disputing families enter the court with a child who is reluctant or refusing to visit a parent, they typically set in motion an adversarial system that seeks evidence to provide definitively, one way or another, whether one of two scenarios prompting the child's behavior are supported. Either the allegations of family abuse and poor parenting by a rejected parent are well-founded in which event protective measures need to be taken, or the child's behavior is indicative of PAS, an outcome of brainwashing by a spiteful, embittered parent, a strategic ploy in the litigation. Allegations of PAS thrive within the traditional adversarial legal system because they promise simple, clear-cut answers as to who is right and who is wrong. If in any way substantiated, PAS sanctifies the rejected parent as an innocent victim and indicts the aligned parent as the malignant perpetrator. There is less willingness to concede that real abuse, abiding mistrust, and blaming between parents jointly contribute to extremely negative views of one another and undermine any capacity they have to co-parent. Parenting capacities are compromised in a self-fulfilling prophecy effect when one or both parents feel under attack and splits and alignments occur in the fractured family, so that burdened, loyalty-conflicted children are at greatest risk from ominous forms of emotional maltreatment. In this context, a diagnosis of PAS can be viewed as "iatrogenic," meaning that it provides a psychiatric prescription that causes its own disease!

In summary, what helps is early prevention of alienation, a good assess-

ment of the multiple factors that contribute to alienation within the child and family, clear court orders that affirm parental rights and restore an appropriate access plan (one that the child can tolerate); ongoing case management, and family-focused therapy (not just parent-child reunification). What hurts is to do nothing, long delays where the child has no contact with the rejected parent, draconian punishments and threats, “parentectomies” (severing the child’s relationship with the aligned parent abruptly), ongoing litigation in the adversarial legal system, and total disregard for the child’s ongoing distress or the teenager’s need to have some choice in those more difficult cases that are resistant to resolution.

